



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Reg. Ext. (3 mos.)
Recon
4/2/02

IN RE APPLICATION OF: Manuel Campos, et al.
APPLICATION NO.: 09/506,078 Examiner: S. Foley
FILING DATE: February 16, 2000 Group Art Unit: 1648
TITLE: FUSION PROTEINS COMPRISING CARRIERS THAT CAN
INDUCE DUAL IMMUNE RESPONSE

COMMISSIONER OF PATENTS AND TRADEMARKS
WASHINGTON, D.C. 20231

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Sir:

APR 09 2002

RESPONSE

TECH CENTER 1600/2900

This Response is being submitted in response to the Office Action dated October 3, 2001. Applicants are filing concurrently herewith a Petition for a Three-Month Extension of Time, whereby the due date for responding to the outstanding Office Action is extended to April 3, 2002.

Claims 1-17 remain in the Application. Claims 1 and 3 are in independent form.

Claims 1-3, 11, 13 and 16 were rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Specific attention is directed to the language in Claims 1 and 3 which claim, "a first proteinaceous portion analogous to all or part of a peptide endogenously synthesized within the vertebrate." The Office Action recognizes that "endogenously synthesized peptides" are defined on Page 10 of the outstanding specification to not be limited to hormones and enzymes. The Office Action admits that the claim language is derived from the specification, but holds that this derivation is not the issue in dispute. The issue held to be in dispute is that the claims are directed to eliciting an immune response to any peptide made endogenously in the vertebrate and these can include either vital proteins or proteins whose functions are unknown and/or undiscovered. The Office Action holds that although this is explicitly implied by the claims, it does not reflect what Applicants intend based on the reading of the specification. However, the issue in dispute is framed focusing on only three words of independent Claims 1 and 3 without reading the claims as a whole. It is respectfully submitted that if the claims are read as a whole, then the term "endogenously synthesized peptides" is not indefinite and is consistent with the intent of Applicants based on the reading of the specification.

More specifically, the independent claims, Claims 1 and 3, claim a first proteinaceous portion of the fusion protein which is analogous to all or part of a peptide. The peptide is defined by three limitations set forth in the independent claims. The peptide is endogenously synthesized within the vertebrate, the peptide has an activity which is inhibited within the vertebrate as a result of the dual immune response in the vertebrate to the fusion protein, and the peptide by itself is